

FILED

NOV 20 2007

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRAIG RICHARD FLEMING,

Defendant - Appellant.

No. 07-10171

D.C. No. CR-04-01691-DCB

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted October 22, 2007^{**}

Before: B. FLETCHER, WARDLAW and IKUTA, Circuit Judges.

Craig Richard Fleming appeals from the 12-month sentence imposed following the revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appellant contends that the district court erred by improperly considering uncharged conduct and dismissed allegations in imposing a sentence at the high end of the undisputed Sentencing Guidelines policy range. We disagree. The Sixth Amendment concerns addressed in *United States v. Booker*, 543 U.S. 220 (2005), are not implicated by the imposition of a new term of imprisonment following revocation of supervised release. *See United States v. Huerta-Pimental*, 445 F.3d 1220, 1224 (9th Cir. 2006). Furthermore, we conclude that the sentence imposed was not unreasonable. *See United States v. Miquel*, 444 F.3d 1173, 1176 (9th Cir. 2006).

AFFIRMED.